

Remarks

**A. Pending Claims**

Claims 466-469, 471-492, 494-507, and 509-518 are pending.

**B. Response to Non-Responsive Amendment**

The reply filed on January 27, 2006 was considered not fully responsive because “Applicant did not adequately respond to at least the provisional obviousness-type double patenting rejection of claims 466-471 and 473-518 on Pages 10-11 of the Office action mailed 8/25/05.” Applicant respectfully submits that the response was fully responsive to all actual objections and rejections.

A **provisional** rejection is not a rejection of the claims, and applicant does not believe that such a rejection requires a response equivalent to an actual rejection of the claims. Applicant’s response to the provisional rejection requested that the rejection be allowed to mature to an actual rejection before applicant provides a definitive response.

The word “provisional” means temporary or serving for the time being. As stated in the Manual of Patent Examining Procedure (MPEP) §804B, “The merits of such a provisional rejection *can* be addressed by both the applicant and the examiner without waiting for the first patent to issue.” (emphasis added). The above-quoted statement means that the provisional rejection “can” be addressed, not the provisional rejection “must” be addressed.

Applicant disagrees with the provisional double patenting rejection of the claims. However, presenting arguments with respect to this rejection would be premature for several reasons. First, amendments to the claims of the present application, or amendments to the claims of the co-pending application, may obviate any double patenting rejection. Second, even if the provisional double patenting rejection were to mature into an actual rejection, Applicant may

elect not to pursue issuance of the present application or the co-pending application.

Applicant does not believe that a definitive response to the provisional double rejection is required. In the alternative, Applicant responds to the provisional double patenting rejection as follows: The provisional double patenting rejection of the claims is based on EP130671. Applicant's arguments with respect to EP130671 in the Amendment; Response to Office Action Mailed August 25, 2005 are hereby reiterated with respect to the provisional double patenting rejections.

**C. Additional Comments**

If an extension of time is required, Applicant respectfully requests the appropriate extension of time. It is believed that no fees are due with the submission of this document. If any fees are required, please appropriately charge those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5659-20800/EBM.

Respectfully submitted,



Eric B. Meyertons  
Reg. No. 34,876

Attorney for Applicant

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.  
P.O. Box 398  
Austin, TX 78767-0398  
(512) 853-8800 (voice)  
(512) 853-8801 (facsimile)

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